REMARKS

The Examiner has subjected this application to election under 35 U.S.C. 121. The Examiner states that the application contains claims directed to the following patentably distinct species: suspensions comprising a) agricultural solids chosen from a fertilizer, an adjuvant, an herbicide and a pesticide; b) nonionic surfactants; c) a glycol liquid consisting of at least one member of the group consisting of ethylene glycol and propylene glycol; and d) at least one member selected from the group consisting of methylthio-α-hydroxybutyric acid, ammonium sulfate, diammonium phosphate and the isopropylamine salt of N-(phosphonomethyl) glycine.

The Examiner asserts that the species of the invention are independent or distinct because Applicant makes claim to both stable agricultural solids and water soluble, stable agricultural solids. Accordingly, the Examiner has required Applicants to elect a specifically named and/or completely named agricultural solid, glycol liquid and nonionic surfactant, and specifically name any additional ingredients. Reconsideration of the election requirement is hereby requested. 35 U.S.C. 121 requires a showing of independence and distinctness before and election or restriction is proper. The Examiner has alleges that the species are independent or distinct, which is an improper standard for an election requirement. In addition, the Examiner has made no showing that the separate species of the invention are independent and distinct. Applicants respectfully assert that claims 1-38 together are linked to form a single inventive concept which should be examined together. Indeed, prior to the filing of the Request for Continued Examination on February 3, 2006, all of the claims were already examined together without a restriction or election requirement. Accordingly, it is respectfully urged that the election requirement be rescinded.

Nonetheless, in compliance with the election of species requirement, Applicants hereby provisionally elect the following species for examination: a) ammonium sulfate as the agricultural solid; b) dodecylphenoxy poly(ethylene oxide)$_{9.5\text{-}11}$ ethanol as the nonionic

surfactant; c) propylene glycol as the glycol liquid; and methylthio-α-hydroxybutyric acid as component d), which elected species are readable on claims 1-6, 8-15 and 17-18. However, the election requirement is traversed.

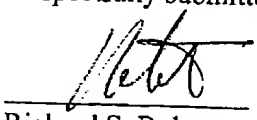
The Examiner's attention is directed particularly to 37 C.F.R. 1.141(b) which states that a reasonable number of species of an invention may be specifically claimed in one application, provided the application also includes an allowable claim generic to all the claimed species. Further, according to 37 C.F.R. § 1.146, the Examiner may require the Applicant to elect a species of the invention to which his or her claim will be restricted if no claim to the genus is found to be allowable. However, as indicated in the Office Action mailed October 3, 2005, the Examiner has already determined independent claims 1 and 10, which are limited to methylthio-α-hydroxybutyric acid as component d), to be allowable. Neither claim 1 nor claim 10 was amended after this indication of allowability. Accordingly, it is submitted that the election of species for allowable claims 1 and 10 is improper and should be rescinded.

With regard to independent claims 21 and 30, in Applicant's response dated December 29, 2005, claims 21 and 30 were amended to specify that the agricultural solids suspensions are water-soluble and contain water-soluble agricultural solids. During a telephonic interview with the Examiner on Wednesday, May 10, 2006, the Examiner stated that this amendment mandated the election requirement, making further guidance necessary to specify which components render the suspensions of claims 21 and 30 water soluble. It is respectfully submitted that it has already been specified in claims 21 and 30 that agricultural solids component a) are water soluble, and that further restricting each of components a)-d) is unnecessary to provide such guidance. Accordingly, is it submitted that the election of species requirement with regard to independent claims 21 and 30 is improper and should be rescinded.

In the event that the Examiner agrees to rescind the election of species requirement with respect to independent claims 1 and 10, but maintains the election of species requirement

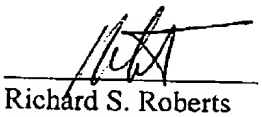
with respect to independent claims 21 and 30, Applicant provisionally elects the following species for examination: a) ammonium sulfate as the agricultural solid; b) dodecylphenoxy poly(ethylene oxide)$_{9.5\text{-}11}$ ethanol as the nonionic surfactant; c) propylene glycol as the glycol liquid; and isopropylamine salt of N-(phosphonomethyl) glycine as component d), which species are readable on claims 21-23, 25, 26, 28-35, 37 and 38. However, the election requirement is still traversed. For the above reasons it is respectfully urged that the election requirement be rescinded.

Respectfully submitted,



Richard S. Roberts
Reg. No. 27,941
P.O. Box 484
Princeton, New Jersey 08542
(609) 921-3500
Date: May 16, 2006

I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office (FAX No. (571) 273-8300) on May 16, 2006.



Richard S. Roberts
Reg. No. 27,941